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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2011-23

13 **WAYNE C. MARTIN, SR.,**
14 **a.k.a. WAYNE MARTIN**
4061 Mt. Vernon Drive
Woodstock, GA 30189
15 **Registered Nurse License No. 579926**

ACCUSATION

Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about April 17, 2001, the Board issued Registered Nurse License Number
23 579926 to Wayne C. Martin, Sr., also known as Wayne Martin ("Respondent"). Respondent's
24 registered nurse license was in full force and effect at all times relevant to the charges brought
25 herein and will expire on April 30, 2011, unless renewed.

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STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action . . .

COST RECOVERY

6. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Disciplinary Action by the Mississippi Board of Nursing)

7. Respondent is subject to disciplinary action pursuant to Code section 2761, subdivision (a)(4), on the grounds of unprofessional conduct, as follows: On or about October 5, 2007, pursuant to the Final Order in the disciplinary action titled *In the Matter of Mississippi License No. R-857897, issued to Wayne Martin*, the Mississippi Board of Nursing (hereinafter "Mississippi Board") ratified the Agreed Order entered into between the Mississippi Board and

1 Respondent whereby Respondent voluntarily surrendered his license/privilege to practice
2 registered nursing in the State of Mississippi. Respondent acknowledged that the surrender of his
3 license shall have the same effect as a revocation of his license. Respondent stipulated that he
4 violated Miss. Code Ann. Section 73-15-29(1)(I) by engaging in unprofessional conduct as
5 defined in the Rules and Regulations of the Board, particularly Chapter II, Section 1.2 (g), in that
6 he misappropriated drugs, supplies, or equipment. Specifically, Respondent self-reported to the
7 Mississippi Board that in March 2005, he took fentanyl from Brooke Army Medical Center, Fort
8 Sam Houston, Texas, for his own use for a shoulder injury while he was in the U.S. Army.
9 Respondent entered into the Army Substance Abuse Program (ASAP) at Brooke Army Medical
10 Center for outpatient rehabilitation on July 1, 2005. Respondent successfully completed
11 outpatient rehabilitation and was released from the ASAP on December 28, 2005. Respondent
12 was discharged from the Army on December 31, 2005. On or about December 28, 2006,
13 Respondent was assessed by Marsha Williams Darnell with Lakeland Counseling Associates,
14 who recommended that Respondent be subject to random drug screens for not less than 12
15 months. A true and correct copy of the Final Order is attached hereto as exhibit A and
16 incorporated herein.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Board of Registered Nursing issue a decision:

20 1. Revoking or suspending Registered Nurse License Number 579926, issued to Wayne
21 C. Martin, Sr., also known as Wayne Martin;

22 2. Ordering Wayne C. Martin, Sr., also known as Wayne Martin, to pay the Board of
23 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
24 pursuant to Business and Professions Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: 7/9/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A
FINAL ORDER

STATE OF MISSISSIPPI

BOARD OF NURSING

IN THE MATTER OF MISSISSIPPI
LICENSE NO. R-857897, issued to:

Wayne Martin
415 Wavetree Drive
Roswell, GA 30075
Respondent

DOB: 03/24/1963

FINAL ORDER

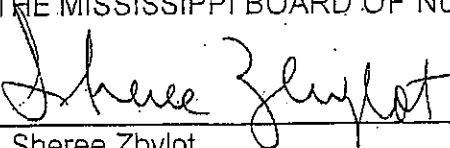
The attached document designated AGREED ORDER was ratified by the Mississippi Board of Nursing on October 5, 2007.

A copy of this Order shall be served upon the Respondent by Certified Mail, Return Receipt Requested.

Entered this the 18th day of October, 2007.

FOR THE MISSISSIPPI BOARD OF NURSING

By


Sheree Zbylot
Interim Executive Director

BOARD SEAL

STATE OF MISSISSIPPI
BOARD OF NURSING

IN THE MATTER OF MISSISSIPPI
LICENSE NO. R-857897, issued to:

WAYNE MARTIN
415 WAVETREE DRIVE
ROSWELL, GA 30075
Respondent

VOLUNTARY SURRENDER

DOB: 03/24/1963

AGREED ORDER

WHEREAS, RESPONDENT, WAYNE MARTIN, is presently vested with the right and privilege to practice as a nurse in the State of Mississippi by virtue of License No. R-857897, issued by the Mississippi Board of Nursing; and

WHEREAS, RESPONDENT, WAYNE MARTIN, has consented to enter into an AGREED ORDER without the necessity of a disciplinary hearing before the Mississippi Board of Nursing;

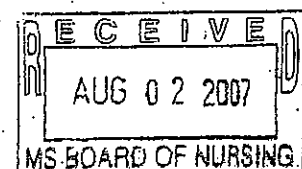
IT IS, THEREFORE, STIPULATED AS FOLLOWS:

1. That this AGREED ORDER is entered into freely, willingly and voluntarily by all the parties without threats or promises, and further, such AGREED ORDER is entered into in lieu of having a full administrative hearing before the Mississippi Board of Nursing.

2. That RESPONDENT hereby voluntarily, willingly and freely waives all his due process rights including, but not limited to, the right to a hearing whereby he could:

- (a) Appear either personally or by counsel or both,
- (b) Cross-examine any witnesses who may testify against him,
- (c) Present testimony, evidence, and witnesses in his behalf, and
- (d) Have subpoenas issued by the Board on his behalf.

3. That RESPONDENT has violated Miss. Code Ann. Section 73-15-29(1)(I), in that he engaged in unprofessional conduct as defined in the Rules and Regulations of the Board, and more particularly, Chapter II, Section 1.2 (g) in that he misappropriated drugs, supplies or equipment. Specifically,



VOLUNTARY SURRENDER OF WAYNE MARTIN

Page 2

RESPONDENT self reported to the Board that in March 2005 he took Fentanyl from Brooke Army Medical Center, Fort Sam Houston, Texas, for his own use for a shoulder injury while he was in the U.S. Army. RESPONDENT entered into the Army Substance Abuse Program for (ASAP) at Brooke Army Medical Center for outpatient rehabilitation on 07/01/2005. RESPONDENT successfully completed outpatient rehabilitation and was released from the ASAP on 12/28/2005. RESPONDENT was discharged from the Army on 12/31/2005. On or about 12/28/2006, RESPONDENT was assessed by Marsha Williams Damell with Lakeland Counseling Associates who recommended RESPONDENT be subject to random drug screens for not less than twelve (12) months.

4. That this AGREED ORDER shall be subject to approval by the Board. If the Board fails to approve the AGREED ORDER, it shall have no force or effect on the parties.

5. That it is understood and agreed that the purpose of this AGREED ORDER is to avoid a hearing before the Board. In this regard, the RESPONDENT authorizes the Board to review and examine any documentary evidence or information concerning the RESPONDENT prior to or in conjunction with its consideration of this AGREED ORDER.

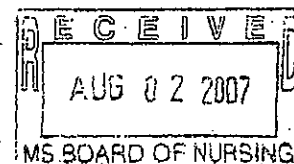
6. That should the Board not accept the AGREED ORDER, the presentation to and consideration of this AGREED ORDER and the documentary evidence by the Board shall not unfairly or illegally prejudice the Board or any of its members from participation in hearings or proceedings pertaining to these or other matters regarding the RESPONDENT.

7. That upon execution of this AGREED ORDER, the RESPONDENT shall immediately be deemed to have voluntarily surrendered his license/privilege to practice nursing in the State of Mississippi. The RESPONDENT acknowledges that this surrender of his license/privilege to practice nursing shall have the same effect as a revocation of his license/privilege to practice nursing.

8. That this VOLUNTARY SURRENDER shall remain in effect for a MINIMUM of one (1) year from the date the Board of Nursing ratifies this AGREED ORDER. However, the RESPONDENT agrees to submit documentation of one (1) year of sobriety in accordance with Board approved guidelines, prior to appearing before the Board for restoration of his nursing license/privilege.

9. That after one (1) year from the date the Board ratifies this AGREED ORDER, the RESPONDENT shall be eligible to petition the Board for restoration provided that the RESPONDENT has met the requirements in Paragraph (8) above. At that time, the Board in its discretion may deny the request, issue a restricted license/privilege, or grant full restoration of the RESPONDENT'S nursing license/privilege.

10. That the RESPONDENT agrees that should he petition the Board for restoration of his nursing license/privilege, the Board shall have access to his entire Board of Nursing investigative file.



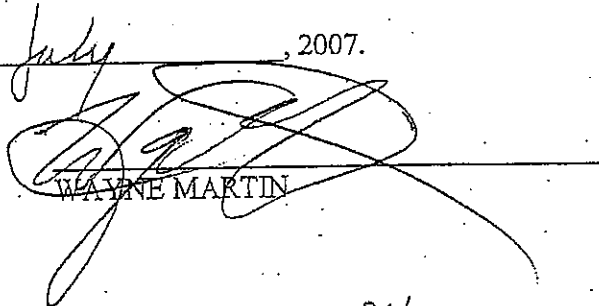
VOLUNTARY SURRENDER OF WAYNE MARTIN

Page 3

11. That the RESPONDENT does hereby fully, completely and finally release the Board of Nursing and its agents, servants, or employees from any and all claims, charges, demands, damages, costs, expenses, actions and causes of action of every kind and whatsoever nature which the RESPONDENT may now or hereafter have which are in any manner whatsoever related to this AGREED ORDER between the RESPONDENT and the Board of Nursing. The Mississippi Board of Nursing admits no liability of any kind and, in fact, specifically denies any and all liability in any way related to this AGREED ORDER.

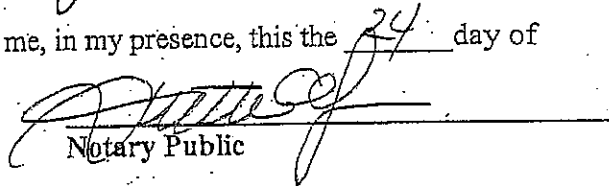
12. That this document will be considered to be a public record and shall be considered to be and may be recorded as a FINAL ORDER of the Board. This discipline will be reported in accordance with the provisions of the Health Insurance Portability and Accountability Act of 1996, as amended.

EXECUTED this the 24 day of July, 2007.


WAYNE MARTIN

Subscribed and sworn to before me, in my presence, this the 24 day of July, 2007.

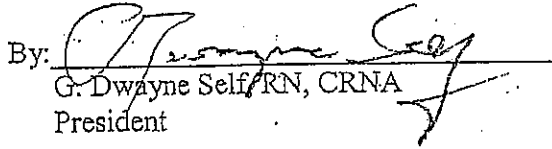
(NOTARY SEAL)
Iveta Olson
Notary Public, DeKalb County, Georgia
Commission Expires April 9, 2008


Notary Public

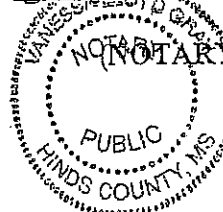
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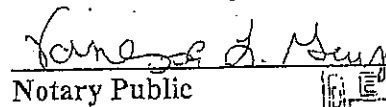
APPROVED AND ACCEPTED by the MISSISSIPPI BOARD OF NURSING on this the 5 day of October, 2007.

BOARD SEAL) MISSISSIPPI BOARD OF NURSING

By: 
G. Dwayne Self, RN, CRNA
President

Subscribed and sworn to before me, in my presence, this the 5 day of October, 2007.

(NOTARY SEAL)
Notary Public State of Mississippi
My Commission Expires May 9, 2009
BONDED THRU STEGALL NOTARY SERVICE



Notary Public

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MS BOARD OF NURSING